

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the adoption)	NOTICE OF PUBLIC HEARING
of Rule I through XV)	ON PROPOSED ADOPTION
pertaining to the pharmacy)	
access prescription drug)	
benefit program (Big Sky Rx))	

TO: All Interested Persons

1. On January 11, 2006, at 4:00 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed adoption of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on January 3, 2006, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; Email dphhslegal@mt.gov.

2. The rules as proposed to be adopted provide as follows:

RULE I BIG SKY RX PROGRAM (1) The rules in this chapter implement the pharmacy access prescription drug benefit program established in 53-6-1004, MCA. This program is referred to in these rules as the big sky Rx program.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE II DEFINITIONS In addition to the definitions in 53-6-1001, MCA, the following definitions apply to this chapter:

(1) "Assets" mean cash or other resources that a person owns and could convert to cash to be used for his or her support and maintenance.

(2) "Closed" means an individual or case that was enrolled but is no longer receiving a benefit amount or was on a waiting list but is no longer on the waiting list.

(3) "Completed application" means the applicant has provided all required information to the department.

(4) "Contract" means an agreement between the department and a PDP provider for the provision of premium payments for enrollees of the program.

(5) "Countable income" means the amount of an applicant's

income that is compared to the federal poverty level (FPL) to determine the applicant's FPL percentage.

(6) "Department" means the department of public health and human services.

(7) "Earned income" means salary, wages, and self-employment net earnings.

(8) "Eligible" means an applicant has met all the big sky Rx program eligibility criteria stated in [RULE V].

(9) "Eligibility threshold" means big sky Rx program income up to 200% of FPL.

(10) "Enrolled" means an eligible applicant enrolled in the program.

(11) "Extra help" means the federal program that assists with premiums, co-payments, and deductibles for clients who meet the social security program's requirements. The program is sometimes referred to as low income subsidy (LIS).

(12) "Family" means individuals residing together, related by blood, marriage, or adoption, and dependent on the household for at least one-half of their support.

(13) "Federal poverty level (FPL)" means the poverty income guidelines published annually in the Federal Register by the U.S. department of health and human services.

(14) "First in first served" means completed applications will be processed and eligible applicants enrolled based on the date the complete application is received by the department.

(15) "Income" or "family income" means salary, wage, self-employment net earnings, in-kind support, royalties, honoraria, social security benefits, veterans benefits, railroad benefits, pensions, workers compensation, alimony, net rental income, trust income, dividends, and interest.

(16) "Incomplete" means the application is missing information required by [RULE VIII].

(17) "Ineligible" means the individual or case does not meet the criteria for enrollment in the program.

(18) "In-kind income" means the value of food and shelter given to the person for which someone else pays.

(19) "Insurer" means an authorized insurer of the federal medicare Part D prescription drug plan (PDP).

(20) "Low income subsidy (LIS)" means the federal program that assists with premiums, co-payments, and deductibles for clients who meet the social security program's requirements. The program is sometimes referred to as extra help.

(21) "Open" means a case or individual that is pending, currently enrolled or eligible to receive the benefit amount but on a waiting list.

(22) "Pending" means the department is waiting to determine eligibility because the individual's application was incomplete.

(23) "Premium assistance" or "benefit amount" means the amount of money the department either pays monthly to an insurer for the provision of benefits for an enrollee or pays to an enrollee.

(24) "Pre-populated" means a computer generated document that includes information from the department's records to be

verified by the applicant.

(25) "Prescription drug plan (PDP)" means the private insurance plans for federal prescription drug benefit for people with medicare. The benefit was created by the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA), (42 USC 1302, 1395w-101 through 1395w-152, and 1395hh). It is implemented at 42 CFR, part 423.

(26) "Processing" means the application is matched against program criteria.

(27) "Program" means the big sky Rx program administered by the department.

(28) "Qualified" means the applicant is a Montana resident with a family income at or below 200% of the FPL.

(29) "Renewal" means the process for applicants to return their pre-populated application timely to remain eligible for big sky Rx benefits.

(30) "Representative" means a person who the applicant has given permission to assist the applicant with program requirements by communicating with the program and receiving information from the department.

(31) "Residing" means living in Montana voluntarily with the intention of making a home here and not for a temporary purpose.

(32) "Unearned income" means any income other than salary, wages, and earnings from self-employment.

(33) "Waiting list" means the list compiled by the department of applicants who are eligible for premium assistance but who are not enrolled in the big sky Rx program because funds are not available to pay their program benefits.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE III BIG SKY RX SCOPE AND PURPOSE (1) Beginning January 1, 2006, medicare prescription drug plans (PDPs) will be available to people with medicare. This is a voluntary federal program created by the Medicare Prescriptions Drug Improvement and Modernization Act of 2003 (MMA) 42 USC 1302, 1395w-101 through 1395w-152, and 1395hh). It is referred to as "medicare Part D" in these rules and implemented in 42 CFR Part 423.

(2) An individual entitled to benefits under medicare Part A or enrolled in medicare Part B is eligible to enroll in a medicare Part D PDP. An individual enrolled in a PDP pays a premium and receives prescription drug coverage. There is also a federal premium subsidy called "social security extra help" for some individuals that assists in paying co-payments, deductibles, and premiums.

(3) The purpose of Montana's big sky Rx program is to pay a portion or all of the cost of the PDP premium for eligible Montana residents who have income at or below 200% of the FPL and do not qualify for federal automatic enrollment. A Montana resident who qualifies for the federal extra help program is eligible for big sky Rx benefit only to the extent needed to supplement the extra help benefit up to \$33.11 per month.

(4) The individual enrolled in Part D must choose and enroll in a federally approved PDP.

(5) The program does not provide assistance with selecting or enrolling in a PDP.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE IV AMOUNT OF THE BIG SKY RX BENEFIT (1) An applicant eligible for the big sky Rx PDP premium assistance may receive a benefit not to exceed \$33.11 per month. The benefit amount will not exceed \$33.11 regardless of the cost of the premium for the PDP the individual chooses.

(a) If a portion of the applicant's PDP premium is paid through the extra help program, the big sky Rx program will pay the applicant's portion of the PDP premium up to \$33.11 per month.

(b) Big sky Rx does not pay for the cost of an enrollee's drugs or the cost of an enrollee's deductible, coinsurance or co-payments.

(c) All expenditures are contingent on legislative appropriation. The amount of the monthly benefit, \$33.11, is determined based on the maximum extra help benefit. This amount extends the social security extra help benefit amount to Montana residents with income up to 200% FPL. The department's total expenditure for the program will be based on appropriation and the number of enrolled applicants.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE V ELIGIBILITY FOR BIG SKY RX (1) An applicant must be eligible and enrolled in the program to receive premium assistance.

(2) To qualify the applicant must:

(a) be a resident of the state of Montana; and

(b) have a family income at or below 200% FPL.

(3) If a qualified applicant's income is at or below 150% of FPL and the applicant has assets of less than \$11,500 for a single person and \$23,000 if married and living together, then the applicant must provide a determination from social security extra help.

(4) An individual who is eligible for medicaid is not eligible for the big sky Rx program.

(5) An individual who the federal government automatically enrolled in a LIS program with full premium subsidy is not eligible.

(6) Eligibility determinations shall be effective for 12 months from the date of determination regardless of change in income or household size. This also applies to an applicant on the waiting list as provided in [RULE X].

(7) Enrollees in the program must comply with procedures specified by the PDP, the department, extra help, and social

security (if applicable) to receive premium assistance.

(8) Program eligibility terminates the end of the month for any of the following events:

- (a) the enrollee becomes medicaid eligible;
- (b) by eligibility verification, the enrollee's income is found to exceed 200% of the FPL;
- (c) the enrollee is no longer enrolled in a PDP;
- (d) the enrollee did not provide an extra help determination, if appropriate, or reapply for extra help;
- (e) the enrollee dies;
- (f) the enrollee is incarcerated; or
- (g) the enrollee fails to provide information requested by the department.

(9) Termination of the benefit amount will be effective at the end of the month that notice of termination is given to the enrollee.

(10) Big sky Rx eligibility and benefits are not an entitlement. If funding is insufficient, the department may reduce enrollment numbers or enrollment criteria to limit the number of individuals who are eligible to participate.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE VI INCOME AND FAMILY SIZE CRITERIA FOR BIG SKY RX

(1) Family income must be at or below 200% FPL to qualify for the program. Assets are not considered. Family income is the total of the applicant's income and the spouse's income if married and living together. For purposes of determining big sky Rx eligibility, the income items listed in this rule are included in family income.

(2) Earned income includes gross wages, net earnings from self-employment, payment for services performed in a sheltered workshop or work activities center, royalties, and honoraria.

(3) Unearned income includes social security benefits, veterans benefits, railroad benefits, public and private pensions, annuities, workers' compensation, alimony, income from a trust, net rental income, dividends, interest, and inheritances.

(4) The applicants' declared value of in-kind support.

(5) Income tax refunds, assistance based on need funded by a state or local government, and small amounts of income received infrequently or irregularly are not counted. The income listed in (2), (3), and (4) may also be decreased based on the adjustments stated in 20 CFR 416 to calculate income for purposes of social security supplemental income (SSI).

(6) The result of adding (2), (3), and (4) and making any disregards of income provided for in (5) equals countable income.

(7) Compare countable income with household size to figure FPL.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE VII MAXIMUM BIG SKY RX PROGRAM ENROLLMENT (1) The department will enroll the number of participants it determines can be served based on the amount of appropriation.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE VIII PROCESSING BIG SKY RX PARTICIPANT APPLICATIONS

(1) The department will process applications on a first in first served basis using the date the application is received by the department.

(a) The program will not enroll or pay benefits retroactively.

(b) Benefits will only be paid to eligible and enrolled individuals as of the first month following enrollment.

(2) Applications will be processed by the department and individuals will be notified in writing of their eligibility status as:

(a) ineligible;

(b) qualified but incomplete;

(c) incomplete;

(d) eligible and enrolled; or

(e) eligible and on the waiting list for the big sky Rx program.

(3) A completed application consists of:

(a) a signed big sky Rx application form with the following information:

(i) applicant's and spouse's (if applicable) name;

(ii) social security number;

(iii) medicare number;

(iv) date of birth;

(v) gender;

(vi) home phone number;

(vii) street address;

(viii) mailing address;

(ix) family size;

(x) family income;

(xi) gross wages;

(xii) family assets;

(xiii) in-kind support;

(xiv) disability or blind related work expense;

(xv) name of applicants' PDP; and

(xvi) payment option of direct deposit or mail if applicant wishes to be paid directly.

(4) An applicant must sign the application and self-declare Montana residency and application for big sky Rx.

(5) An applicant must provide documentation of medicare Part D PDP or medicare advantage plan enrollment including documentation of Part D name, group number, and premium payment portion amount.

(6) An applicant must provide documentation of a social security extra help determination if the applicant has family income at or below 150% FPL and assets of less than \$11,500 if single or \$23,000 if married and living together.

(7) An application is incomplete if it is missing any item listed in (3) through (6).

(8) Individuals not meeting the eligibility criteria in [RULE V] will be considered ineligible and mailed a program notice containing the reason for ineligibility. An individual may request an appeal, as provided in [RULE XI]. An individual may reapply for the program at any time.

(9) Qualified but incomplete applications will be marked pending until the applicant provides the PDP information and, if appropriate, the social security extra help determination.

(a) The applicant will be notified that the application is pending. The application will be held for 60 business days from the date of the notice. Following the 61st business day, a notice will be sent to the applicant reminding him of the missing information.

(b) The application will remain "pended" until the information can be processed. If the information is still missing on the 91st business day following the original notice, the department will consider the applicant ineligible and the individual will be notified. The department will take no further action.

(10) Incomplete applications that are not otherwise qualified are considered "pending" by the department. These individuals will be notified of the missing information.

(a) A pended application will be held for 20 business days waiting for missing information. If the missing information is received within the 20 business days from the date of the notice, the application will be processed.

(b) Following the 21st business day the department will consider the application incomplete. The applicant becomes ineligible, and will be notified. The department will take no further action.

(11) Eligible individuals must meet all of the eligibility criteria in [RULE V]. An eligible applicant will be enrolled in the program on a first in first served basis using the date the completed application is received by the department.

(12) Program enrollment starts the first day of the following month. Enrollees will be sent an enrolled notice, including the approved premium benefit amount. The premium benefit amount will be paid to the PDP or the individual for the following month.

(13) If no premium assistance is available because of funding, eligible individuals will be placed on the department's waiting list. If funds become available, a notice will be sent and the applicant will be enrolled.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE IX BIG SKY RX APPLICATION RENEWAL (1) Sixty days prior to the end of the 12-month eligibility period, a pre-populated notice will automatically be generated and sent to the client. This notice is generated based on the eligibility enrollment determination date.

(2) The client must verify the program information on the notice by noting any changes on the application and returning it to the department before the eligibility period ends.

(a) The enrollee's renewal application will be processed as a renewal application when received by the department.

(b) The application will be processed according to [RULE VIII].

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE X MAINTENANCE OF A WAITING LIST FOR THOSE DETERMINED ELIGIBLE FOR BIG SKY RX (1) The department will process applications and will notify eligible individuals in writing of their program status.

(2) If no available program slot exists, the eligible individuals will not be enrolled and will be maintained on a waiting list until a slot becomes available.

(3) When slots are available, individuals will be notified in writing prior to the month of enrollment.

(4) The 12-month eligibility stated in [RULE V] applies.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE XI BIG SKY RX GRIEVANCE AND APPEAL PROCEDURES

(1) All decisions of the department related to the administration of the big sky pharmacy Rx program are reviewable using the procedures stated at ARM 37.5.101, 37.5.304, 37.5.307, 37.5.313, 37.5.318, 37.5.322, 37.5.325, 37.5.328, 37.5.331, and 37.5.334.

(2) An applicant contesting a denial, or an enrollee or guardian contesting a benefit or enrollment denial, benefit reduction, disenrollment, closure, or termination of big sky Rx may request a fair hearing.

(3) If a written request for hearing is not received by the department within 90 days of the mailing date of a notice of adverse action, the hearing officer may deny a hearing as provided in ARM 37.5.313.

AUTH: Sec. 53-2-201, 53-6-1004, and 53-6-1011, MCA

IMP: Sec. 53-2-606, MCA

RULE XII BIG SKY RX APPEAL PROCEDURES (1) Hearings to contest adverse department actions under the big sky Rx program, Title 53, chapter 6, part 10, MCA, are available to the extent granted by statute or rule in accordance with [RULE XI].

AUTH: Sec. 53-2-201, 53-6-1004, and 53-6-1011, MCA

IMP: Sec. 53-2-606, MCA

RULE XIII VERIFICATION OF ELIGIBILITY FOR BIG SKY RX

(1) A random sample of enrolled individuals will be required to participate in an eligibility verification review

and provide documentation to verify the income as stated on the application.

(2) An individual will have 20 business days from the date of the written request by the department to submit the required income documentation. The client will remain enrolled during the verification process.

(a) If the required documentation is not received by the department after 20 days, the enrolled individual will be disenrolled from the program the following month.

(b) An individual who provides income verification documentation after 21 business days will have the application reprocessed as if it is a new application.

(3) If verified income is over 200% FPL, the applicant will be disenrolled effective the last day of the month in which the determination was made and the client was notified.

(4) For purposes of this rule, necessary income documentation may include one or more of the following:

- (a) state or federal income tax returns;
- (b) pay stubs or other pay statements;
- (c) employee's W-2 forms;
- (d) self employment records documenting income and expenses;
- (e) check copies;
- (f) correspondence from an employer specifying a benefit;
- (g) records of any government payor; or
- (h) other appropriate, persuasive documentation may be accepted at the discretion of the department.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE XIV BIG SKY RX PREMIUM PAYMENTS (1) Monthly premium payments will be made to:

- (a) an insurer that has contracted with the department;
- (b) directly to clients if:
 - (i) their monthly premium is deducted from their social security check;
 - (ii) they enroll in a PDP provided by an insurer that does not contract with the department; or
 - (iii) the client chooses to be paid directly.
- (c) direct payments to enrollees can be made:
 - (i) by check mailed to the enrollee; or
 - (ii) through direct deposit.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

RULE XV BIG SKY RX PDP CONTRACTS (1) An insurer receiving direct payment of all or part of a PDP premium from the state on behalf of an enrollee must enter into a contract with the department.

AUTH: Sec. 53-2-201, and 53-6-1004, MCA

IMP: Sec. 53-6-1001, 53-6-1004, and 53-6-1005, MCA

3. The 2005 Legislature enacted 2005 Laws of Montana Chapter 287 (SB 324), which provides for a pharmacy access program to complement the federal Medicare Part D program. These rules are necessary to establish how the Department of Public Health and Human Services (Department) will administer the State Pharmacy Access program. The Department is calling this program the "Big Sky Rx program".

The Medicare Part D Prescription Drug Plans (PDPs) are private insurance plans established as part of the federal Medicare Part D program. Insurance policies from qualifying companies, with varying rates and coverage, will be available to all Medicare recipients who want to buy insurance coverage for prescription drugs.

The Big Sky Rx program is a state funded program to pay a portion of the PDP premiums for Montana residents with income up to 200% of the Federal Poverty Level (FPL). To qualify for state assistance, a resident must enroll in a PDP plan and have income at or below 200% of the FPL. Individuals who are at or below 150% of the FPL and have limited assets may qualify for federal assistance to pay for a portion of the premium. Those individuals must apply for the Federal Extra Help program.

Eligibility for the Federal Extra Help program is limited to individuals with assets of less than \$10,000. Montana does not have an asset limit for eligibility. The Department will require an individual or married couple who report assets of less than \$11,500 or \$23,000, respectively and income at or below 150% of FPL to apply for and be determined ineligible for federal assistance before that individual can enroll in the Big Sky Rx program.

The Legislature appropriated approximately \$15,750,000 over the biennium to fund the programs described in 2005 Laws of Montana Chapter 287 (SB 324). The Department is establishing the Big Sky Rx program first and will allocate the appropriation based on demand. Eligible individuals will be enrolled on a first come first serve basis. If the Department determines there is insufficient appropriation to meet demand, enrollment will be limited and eligible individuals will be on a waiting list until benefits become available.

RULE I Big Sky Rx Program

This rule is necessary to identify the program implemented in these new rules. The Legislature appropriated \$15,750,000 over two fiscal years to implement 2005 Laws of Montana Chapter 287 (SB 324).

RULE II Definitions

This rule defines words and phrases that are not defined in statute but are used extensively in these rules.

RULE III Big Sky Rx Scope and Purpose

This rule is necessary to explain the scope and purpose of the Big Sky Rx program. The purpose of the state program is to coordinate with the federal program to make prescription drug insurance coverage available to Medicare recipients. All Medicare recipients are eligible to purchase prescription drug insurance coverage. All Medicaid and most SSI recipients will automatically be enrolled in the Part D program and their premiums will be paid through the federal program. The federal government also has a program, called Extra Help, to assist individuals and couples with income below 150% and assets below \$10,000 pay for the coverage. The Big Sky Rx program is intended to assist Montana residents with income at or below 200% of FPL who are not eligible for full federal assistance. Eligibility for federal assistance may limit an individual's eligibility for state assistance.

RULE IV Amount of the Big Sky Rx Benefit

The state program will provide up to \$33.11 a month in assistance to Montana residents who qualify. This amount is determined by the Department. It is the maximum benefit amount available from the federal government through its Extra Help programs. State assistance is limited to the premium price paid for a PDP up to \$33.11. The state program, unlike the federal Extra Help, does not pay co-pays or deductibles. This rule is necessary to establish the amount of the benefit.

RULE V Eligibility for Big Sky Rx

This rule states the eligibility criteria for state assistance through the Big Sky Rx program. An individual must submit a completed application showing that he or she is a Montana resident with family income at or below 200% of FPL.

The Department will do a case by case review to determine which qualified applicants it believes may be eligible for federal assistance based on income at or below 150% of FPL and assets below \$11,500 if single or \$23,000 if married and living together. Those qualified applicants will be notified that if they wish to be enrolled in the Big Sky Rx program they must first submit proof that they applied for and were denied federal assistance before they are eligible for state assistance.

An eligible applicant must comply with the procedures specified by the PDP, the Department, and the Extra Help program to receive assistance.

RULE VI Income and Family Size Criteria for Big Sky Rx

The rule is necessary to detail income and family size that will be used for eligibility criteria. The Department is using the same income and family size as the Social Security Extra Help

because these criteria are equitable and using the same criteria simplifies the application process for both the Applicant and the Department.

RULE VII Maximum Big Sky Rx Program Enrollment

This rule is necessary for the Department to administer the program within the appropriation provided by the Legislature. It states how the Department will determine how many eligible applicants to enroll. The Legislature has given the Department discretion to allocate the appropriation for the Prescription Drug Expansion program to the Pharmacy Access program if the Department determines that there are "excess funds for the pharmacy access program" (53-6-1004(6), MCA). The Department is going to make that determination based on the number of eligible applications it receives. A waiting list will be maintained if the Department determines the appropriation will not be sufficient to provide benefits to all eligible individuals for a 12-month period.

RULE VIII Processing Big Sky Rx Participant Applications

This rule is necessary to explain what information the Department will require and how the Department will process applications using the eligibility criteria established in Rule V and the family size and income criteria in Rule VI. Applications will be processed and classified into five groups - ineligible, qualified but incomplete, incomplete, eligible and enrolled, or eligible but on a waiting list. This rule establishes various deadlines for applicants to provide additional information, including proof that federal assistance was denied, if the Department determines that is necessary. An applicant who does not provide additional information within the time allowed must resubmit his or her application if he or she wants to be considered for premium assistance.

RULE IX Big Sky Rx Application Renewal

This rule is necessary to establish how an enrollee renews his or her Big Sky Rx benefit on an annual basis. An enrollee will receive a notice, with preprinted information to be verified, 60 days before the benefit period expires. The enrollee must reapply every year but his or her benefits are renewed, not placed on the waiting list, if funds are available.

RULE X Maintenance of a Waiting List for Those Determined Eligible for Big Sky Rx

This rule is necessary if the program receives applications from more qualified residents than there is funding available. This rule states how a waiting list will be maintained if there are more eligible applicants than funds allocated to provide Big Sky Rx benefits. The new rules will be effective retroactively to November 1, 2005. Big Sky Rx will begin taking applications

November 15, 2005 but will not begin to pay benefits until the month of January, 2006.

RULE XI Big Sky Rx Grievance and Appeal Procedures

This rule is necessary to state the appeal process that will be available to applicants and enrollees who are not satisfied with a program decision. The Board of Public Assistance will hear and resolve disputes using its fair hearing procedures, which conform to the requirements of the Montana Administrative Procedures Act.

RULE XII Big Sky Rx Appeal Procedures

This rule is necessary to provide a cross reference in the Big Sky Rx program rules to the appeal procedures stated in Rule XI, which will be codified in the Department's rules governing appeals - ARM Title 37, Chapter 5.

RULE XIII Verification of Eligibility for Big Sky Rx

This rule is necessary to state the Department's quality assurance procedures for verification of eligibility. As a prerequisite of receiving benefits, an enrollee must agree that if he or she is randomly selected to participate in an eligibility verification review, the enrollee will cooperate with the reviewer and provide documentation of eligibility. Verification of eligibility is necessary to monitor that the program is being implemented according to statute.

RULE XIV Big Sky Rx Premium Payments

This rule is necessary to explain how the monthly benefit amount will be disbursed. The Big Sky Rx program requires coordination between the Department and the insurance company providing the PDP for the transfer of funds and the establishment of coverage dates. The enrollee may choose his or her PDP provider. If that insurer accepts the terms of participating in Montana's Big Sky Rx program, payment will be made directly to the insurer. This will assist the enrollee and improve program efficiency.

RULE XV Big Sky Rx PDP Contracts

The Department is entering into contracts with insurers who provide PDPs. The contracts are going to be uniform among insurers. This rule will state the requirements of an insurer to participate in the Big Sky Rx program.

The Department estimates that the program will serve approximately 20,000 Montanans with incomes up to 200% of FPL annually. \$7,000,000 in SFY 2006 and \$8,750,000 in SFY 2007 have been appropriated from I-149 Tobacco Tax revenues.

4. These rules will be adopted retroactively to November

1, 2005. There is no negative impact as a result of adopting these rules retroactively.

5. Interested persons may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on January 1, 2006. Data, views or arguments may also be submitted by facsimile to (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

6. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

Russell Cater
Rule Reviewer

John Chappuis
Director, Public Health and
Human Services

Certified to the Secretary of State December 12, 2005.